

UNITED STATES DEPARTMENT OF JUSTICE
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By: Norma Hildenbrand (PA ID 70421)

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF	§	MISC. CASE NO. 07-00204 TPA
COUNTRYWIDE HOME LOANS, INC.,	§	
	§	
	§	
	§	
	§	Relating to Doc. No. 106
ROBERTA A. DeANGELIS	§	
ACTING UNITED STATES TRUSTEE,	§	
	§	
Movant,	§	Hearing Date and Time:
	§	June 11, 2009 at 10:00 a.m.
v.	§	
COUNTRYWIDE HOME LOANS, INC.,	§	Response Deadline May 31, 2009
	§	
Respondent.	§	

**THE UNITED STATES TRUSTEE'S STATUS REPORT IN RESPONSE
TO THE COURT'S ORDER DATED MAY 14, 2009**

COMES NOW, Roberta A. DeAngelis, Acting United States Trustee for Region 03, through her undersigned counsel, and respectfully files this Status Report in Response to the Court's Order of May 14, 2009 in the above-referenced case and represents as follows:

A. BACKGROUND

1. On October 18, 2007, the United States Trustee served a Subpoena *Duces Tecum* and Notice of 2004 Examination on Countrywide Home Loans, Inc. (“Countrywide”) to obtain information relating to Countrywide’s servicing of debtors’ mortgages and related actions taken by Countrywide in ten chapter 13 cases in the Bankruptcy Court for the Western District of Pennsylvania.

2. These ten cases became known as the “context cases.” They include *In re Benvenuto*, Case No. 02-20946 JKF (Bankr. W.D. Pa.) (alleged inaccurate escrow deficiency calculation); *In re Bock*, Case No. 04-32812 BM (Bankr. W.D. Pa.) (filing of allegedly improper motion for relief from stay); *In re Ennis*, Case No. 05-11985 WWB (filing of Motion for Relief from Stay that lacked merit); *In re Hill*, Case No. 01-22574 JAD (post-discharge collection for claimed mortgage deficiencies); *In re Karleski*, Case No. 04-31355 JKF (Bankr. W.D. Pa.) (filing of allegedly improper motions to dismiss bankruptcy case); *In re Olbeter*, Case No. 04-33361 JKF (Bankr. W.D. Pa.) (filing of allegedly improper motion for relief from stay); *In re Ramsey*, Case No. 01-31062 TPA (filing of proof of claim and then increasing amount owed in objection to chapter 13 plan); *In re Roberts*, Case No. 05-25324 TPA (lack of explanation for monthly mortgage payment increase on proof of claim); *In re Stemple*, Case No. 03-11792 WWB (Bankr. W.D. Pa.) (filing of allegedly inaccurate proof of claim); *In re Topper*, No. 05-20772 JAD (Bankr. W.D. Pa.) (filing of allegedly improper motion for relief from stay).

3. Countrywide filed a Motion to Quash and Objection to Notices of Examination Under Fed. R. Bankr. P. 2004 and Subpoenas (*Duces Tecum*). The Court then consolidated the context cases into this miscellaneous proceeding.

4. On December 20, 2007, the Court held a hearing in one of the context cases – *Sharon Diane Hill*. Following that hearing, the Court permitted discovery by the United States Trustee and the Chapter 13 Trustee relating specifically to the *Hill* case (see *Hill* Docket, Doc. No. 103).

5. After a subsequent hearing in the *Hill* case on Countrywide's Motion Seeking a Protective Order Limiting Discovery, Countrywide agreed to produce documents regarding Ms. Hill, and on March 17, 2008, Countrywide provided Ms. Hill's loan documents and related records. These documents were Bates-stamped CHL-HILL-000001 through 003029. After the Court entered a Stipulated Protective Order between Countrywide and the United States Trustee concerning confidential records (see *Hill* Docket, Doc. No. 175), Countrywide delivered to the United States Trustee additional records, Bates-stamped as CHL-HILL-003030 through 006716.

6. On April 1, 2008, the Court entered an Order in this miscellaneous proceeding ordering the production of documents to the United States Trustee and permitting examination on the documents in the context cases through the open *Hill* case:¹

[F]or the sake of administrative convenience and to avoid any potential *res judicata* issues, the Court will stay the *Notice of Examination and Subpoena* in all context cases except *In re Hill*, Case No. 01-22574-JAD. In that case, the Court will direct Countrywide to produce documents in Categories 5-12 as to each of the Debtors in the context cases and will direct Countrywide to make a witness or witnesses available to be examined on the topics identified by the UST.

In re Hill, 384 B.R. 373, 404 (Bankr. W.D. Pa. 2008).

¹ The United States Trustee withdrew her request for the loan documents in the cases of *Ennis*, *Ramsey* and *Roberts* on February 28, 2008.

7. Countrywide filed a Notice of Appeal of the April 1, 2008 Order, together with a Motion for Leave to Appeal and Motion for Stay Pending Appeal. The District Court denied Countrywide's motions (Doc. No. 105). No appeal was taken from the District Court Order. There are no pending motions in this miscellaneous proceeding.

**B. THE UNITED STATES TRUSTEE'S PRELIMINARY ACTIONS
RELATED TO *HILL***

8. During the discovery period in the *Hill* case, the United States Trustee deposed the following Countrywide employees, officers and counsel regarding the events in the *Hill* case and Countrywide's structure, policies, procedures, and confidential information:²

- Kimberly Hill, Bankruptcy Specialist II (March 28, 2008 and May 14, 2008).
- Roberta "Bobbi" Hook, Bankruptcy Manager (May 14, 2008).
- Melissa "Lisa" Middleton, Vice-President (May 13, 2008).
- John Smith, Senior Vice-President, Foreclosure, Bankruptcy and Real Estate Management (May 22, 2008).
- Leslie Puida, Counsel for Countrywide, Attorney for Goldbeck McCafferty and McKeever (April 8, 2008).
- Christopher Amann, Supervisor of the Bankruptcy Department at Goldbeck McCafferty and McKeever (April 8, 2008).

9. On June 23, 2008, the United States Trustee filed a Motion for Rule to Show Cause in the *Hill* case (*Hill* Docket, Doc. No. 223). The Court entered a Rule to Show Cause on June 24, 2008 (*Hill* Docket, Doc. No. 226).

² Both counsel for the United States Trustee and the Chapter 13 Trustee participated in the discovery process in the *Hill* case. Counsel for the United States Trustee served Subpoenas for Rule 2004 Examinations of specific employees of Countrywide, and counsel for the Chapter 13 Trustee issued a Notice for the Examination of a Witness pursuant to Fed. R. Civ. P. 30(b)(6). Also, Countrywide's counsel took the depositions of Kenneth Steidl and Julie Steidl on May 23, 2008.

C. THE UNITED STATES TRUSTEE'S ACTIONS RELATED TO THE CONTEXT CASES

10. On June 20, 2008, Countrywide delivered to the United States Trustee loan documents and related records in the context cases of *Benvenuto, Bock, Karleski, Olbeter, Stemple* and *Topper*. The documents were Bates-stamped CHL-PA-006330 through 017156. The United States Trustee reviewed relevant documents from those files.

11. Based on documents reviewed in *Karleski*, the United States Trustee filed a Motion *in Limine* in the *Hill* show cause proceeding for the admission of evidence from the *Karleski* records pursuant to Fed. R. Evid. 404(b) and 406 (*Hill* docket, Doc. No. 395).

12. At this time, the United States Trustee does not intend to take further action related to the remaining five context cases – *Benvenuto, Bock, Olbeter, Stemple* and *Topper*.

D. THE UNITED STATES TRUSTEE'S CONTINUING REVIEW OF CREDITOR ACTIONS

13. In furtherance of the United States Trustee Program's mission to ensure the integrity of the bankruptcy system, including its duty to identify and address fraud and abuse, the United States Trustee continues to review suspected abusive conduct by creditors and take appropriate remedial action in ongoing bankruptcy cases, including cases involving Countrywide.

14. For example, in *In re Chisholm*, Case No. No. 07-21076 JKF (Bankr. W.D. Pa.), the United States Trustee sought Countrywide's loan history and escrow analysis in support of its payment change notice to the Debtor. Countrywide failed to provide that information to the United States Trustee prior to the Court's hearing on Debtor's Objection to the Payment Change Notice.

Although the Debtor and Countrywide proposed submitting a settlement to the Court for approval, counsel for the United States Trustee appeared at the hearing and informed the Court of her request for information and the Court continued the hearing to June 17, 2009 (*see Chisholm* Docket, Doc. No. 41).

15. The Court ordered Countrywide to provide the information requested by the United States Trustee on or before June 2, 2009. If after reviewing the documents produced the United States Trustee still has concerns relative to Countrywide's actions, the Court will hear the matter on the continued hearing date.

16. The United States Trustee will continue to review proofs of claim, motions for relief from stay, notice of payment changes and other pleadings filed by creditors and their counsel in this court, and she will take appropriate action when necessary to investigate and redress suspected abusive conduct.

E. CONCLUSION

17. The United States Trustee has no objection to the closing of this miscellaneous proceeding, provided: (1) it does not prejudice the United States Trustee's rights in the *Hill* show cause proceeding, including presentation of evidence related to *Karleski* pursuant to Fed. R. Evid. 404(b) and 406; and (2) it does not prejudice the United States Trustee's rights in any currently pending or future bankruptcy case filed in the Western District of Pennsylvania.

WHEREFORE, the United States Trustee respectfully files this Status Report in response to the Court's Order dated May 14, 2009.

Respectfully submitted,

ROBERTA A. DeANGELIS
ACTING UNITED STATES TRUSTEE

Dated: May 29, 2009

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